



Scott Walker, Governor
Dave Ross, Secretary

Secretary Kathleen Sebelius
Department of Health and Human Services
200 Independence Avenue
Washington D.C., Maryland 20201

May 1, 2014

Dear Secretary Sebelius:

The Wisconsin Department of Safety and Professional Services (DPS) serves as the credentialing and oversight body for many of Wisconsin's licensed healthcare professionals and business entities. The Department has recently been made aware through a Centers for Medicare & Medicaid Services (CMS) audit that a number of Wisconsin's medical oxygen suppliers, distributors, and manufacturers are out of compliance with state law, and are therefore ineligible to receive Medicare reimbursement for services rendered to Wisconsin citizens.

According to a letter from Palmetto GBA:

The SACU [Supplier Audit and Compliance Unit] is charged with the responsibility of protecting the integrity of the Medicare Trust Fund by ensuring that all suppliers of Part-B-covered items are in full compliance with these standards. The standards can be found in the *Code of Federal Regulations* (42 CFR §424.57). More specifically, we would like to draw your attention to the following standard(s):

42 CFR §424.57(c)(1): Operates its business and furnishes Medicare-covered items in compliance with the following applicable laws:

- (i) Federal regulatory requirements that specify requirements for the provision of DMEPOS [Durable Medical Equipment, Prosthetics, Orthotics and Supplies] and ensure accessibility for the disabled.
- (ii) State licensure and regulatory requirements. If a State requires licensure to furnish certain items or services, a DMEPOS supplier—
 - (A) Must be licensed to provide the item or service; and
 - (B) May contract with a licensed individual or other entity to provide the licensed services unless expressly prohibited by State law.

As the Wisconsin governmental body charged with ensuring statutory compliance and consumer protection as it relates to the dispensing of prescription medications, DPS is committed to providing medical oxygen to patients in a manner that is compliant with both State and Federal regulatory requirements.

Pursuit of a statutory solution will occur in the next legislative session. However, because the legislature has adjourned, a statutory remedy is not possible until January 2015 at the earliest. Until that time, the Department requests a one year extension to allow oxygen suppliers, distributors, and manufacturers to come into compliance with the law.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Ross', is written over a horizontal line.

Dave Ross
Secretary
Wisconsin Department of Safety and Professional Services